IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2114 OF 2005

Mrs. Asha B. Sharma ... Applicant

versus

The State of Maharashtra ... Respondent

...

Mr.R.V. Govilkar with Mr. K.H. Giri, for the Applicant.

Mr.V.B. Konde Deshmukh, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

5th April 2005

P.C.:

. Heard Counsel for the parties. Perused the record. The Applicant apprehends arrest in respect of an offence registered against the Applicant as CR.No.52/2005 under section 420 of the Indian Penal Code with Nirmal Nagar Police Station. It is stated in the F.I.R. as filed

that the Applicant, who has got marriage bureau registered was indulging in illegal activities relating to conduct of marriages and misusing the licence issued to the bureau. To justify this allegation, learned A.P.P. placed reliance on the marriage certificate issued by the said bureau run by the Applicant. He also placed reliance on the statement of the witness who has deposed that the Applicant facilitated performance of his marriage. The argument of learned A.P.P. is that the marriage bureau was not competent to issue certificate in the format in which it has been issued by the Applicant. Besides, the function of the marriage bureau was only to find matches for the interested persons and not to perform marriages.

. After considering the materials on record, in my opinion, the reason for which the Applicant is being proceeded with is not sufficient to attract the provisions of section 420 of the Indian Penal Code. There is no prohibition under any law, which would enable performance of marriage of two willing persons. At least, such provision is not brought to my

notice. The statement of the witness, on which reliance is placed, even if accepted as it is, makes no reference to the fact that he parted with a sum of Rs.351/- under compulsion or because of misrepresentation. If two willing parties have approached the Applicant and the Applicant facilitated their marriage, that by itself cannot attract the provisions of section 420 of the Indian Penal Code. Indeed, there is some substance in the argument canvassed by the learned A.P.P. that the format in which marriage certificate is issued by the Applicant is misleading and gives an impression as if that is a marriage registration certificate. This submission overlooks the fact that the document is described as "Marriage Certificate" and not as "Marriage Registration Certificate" issued in Form B,(Exhibit A) under section 5(2)(4) and Rule 3. Besides, it has come on record that immediately on receipt of the show cause notice, the Applicant has informed the concerned authority that she was not interested in continuing with the social activity undertaken by her and she has surrendered her licence. This shows the bona fide of the Applicant. Besides,

the Applicant is willing to co-operate for the purpose of investigation. Taking overall view of the matter, in my opinion, this is a fit case to grant anticipatory bail to the Applicant, but on the following conditions.

(A) The Applicant is granted anticipatory bail in connection with CR.No.52/2005 registered with Nirmal Nagar Police Station on executing personal bond in the sum of Rs.25,000/- (Rupees Twenty five thousand only) with one or two local sureties in the like amount.

(B) The Applicant shall not influence the prosecution witnesses nor shall tamper with the prosecution evidence in any manner whatsoever.

(C) The Applicant shall co-operate for the purpose of investigation and report to the investigating officer as and when called upon.

(D) In addition, the Applicant shall give

public notice in two newspapers, within three weeks from today, having wide circulation in Mumbai, namely, Times of India (English version) and Loksatta (Marathi version) mentioning the fact that she has surrendered bureau licence to the authorities and she has stopped entertaining the request for finding match of unmarried persons and divorcees, which activity she was doing till recently, as her social obligation.

(E) Relief of anticipatory bail will enure till the filing of the charge sheet. On filing of the charge sheet, the Applicant may apply for regular bail before the appropriate Court.

. It is made clear that the trial Court shall decide the matter on its own merits uninfluenced by the observations made in this order, which are made only for the purpose of considering prayer for anticipatory bail.

. Application disposed of on the above

terms.

(A.M.KHANWILKAR,J.)